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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/688,289	10/13/2000	Robert G. Padingham	584-1033	8885

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EXAMINER

PWU, JEFFREY C

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/688,289

Applicant(s)

PADINGHAM ET AL.

Examiner

Jeffrey Pwu

Art Unit

3628

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-10,12,13 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-10,12,13 and 15-28 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 3 recites the limitation "the optimal negotiation profile". There is insufficient antecedent basis for this limitation in the claim. Also, the word "means" is preceded by the word(s) "control" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 2-3, 5-10, 12-13, 15-28 are rejected under 35 U.S.C. 102(e) as being unpatentable over Snelgrove et al. (U.S. 6,058,379).

Snelgrove et al. discloses claims:

Art Unit: 3628

2. A software agent (paragraph [0077]) for a party conducting electronic trading, comprising a transaction engine, a negotiation engine (22; paragraph [0041]) driven by the transaction engine, and a store of a plurality of negotiation profiles, and control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (method steps of figs. 3-5).
3. A method of performing automated reverse auction on an electronic network using software agents for buyers and sellers wherein the software agent for each buyer and each seller comprises a transaction engine, a negotiation engine driven by the transaction engine; and a store of a plurality of negotiation profiles; and control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (page 2, paragraph [0024]-[0028]).
5. A method of automated bi-lateral negotiation in which buyers' agents co-operate to produce a call for proposal to purchase collectively from one or more seller wherein the software agent for each buyer and each seller comprises a transaction engine, a negotiation engine driven by the transaction engine; and a store of a plurality of negotiation profiles; and control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state and to cause the transaction engine to initiate or

Art Unit: 3628

conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (page 3, paragraph [0047]-[0060]).

6. A method according to Claim 5, in which each buyer is represented by a software agent (paragraph [0077]).

7.A method according to Claim 5, in which each seller is represented by a software agent (paragraph [0077])

8.A method according to Claim 5, comprising the use of an intermediate software agent between the buyers and the or each seller, for negotiating a contract between the or each seller and the collective buyers (abstract).

9. A method according to Claim 6, in which each software agent comprises a transaction engine, a negotiation engine driven by the transaction and a store of a plurality of negotiation profiles, and control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (method steps of figs. 3-5).

10. An intermediate re-selling software agent for use on an electronic network for negotiating contracts between at least one buyer and at least one seller, by purchasing from a seller and re-selling it to a buyer the intermediate re-selling software agent comprising a transaction engine, a negotiation engine driven by the transaction engine, and a store of a plurality of negotiation profiles; and control means responsive to the commercial situation or state of the party to

Art Unit: 3628

select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile (page 2, paragraph [0024]-[0028]).

12. An intermediate negotiation system for e-commerce comprising multiple software agents capable of being engaged by buyers and/or sellers, and an interface for negotiating contracts between respective agents of at least one buyer and at least one seller each software agent comprises a transaction engine driven by the transaction engine; and a store of a plurality of negotiation profiles, and control means responsive to the commercial situation or state of the party to select the optimal negotiation profile appropriate to that situation or state, and to cause the transaction engine to initiate or conduct e-commerce negotiations using the negotiation engine programmed with the selected negotiation profile.

13. An intermediate negotiation system according to Claim 12, arranged to conduct an automated reverse auction on an electronic network using software agents for buyers and sellers (paragraph [0139]).

15. A system according to Claim 27, in which each software agent is a component of a distributed architecture (figs. 5-8).

16. A system according to Claim 12, in which each software agent is a component of a distributed architecture (figs. 5-8).

17. A method according to Claim 3, in which each software agent is a component of a distributed architecture (figs. 5-8).

18. A method according to Claim 5, in which each software agent is a component of a distributed architecture (figs. 5-8).

Art Unit: 3628

19. A software agent according to Claim 2, in which the negotiation engine is a component of a distributed architecture (figs. 5-8).
20. An intermediate re-selling software agent according to Claim 10, which is a component of a distributed architecture (figs. 5-8).
21. An intermediate negotiation system according to Claim 12, which is a component of a distributed architecture (figs. 5-8).
22. A system according to Claim 27, in which the software is implemented as FIPA open source (paragraph [0131]-[0144]).
23. A communications network comprising a system according to Claim 27.
24. A communications network according to Claim 23, in which the network consists of the Internet (10).
25. A computer program for creating a system according to Claim 2 (10).
26. A computer program for creating a software agent according to Claim 2 (10).
27. A system for performing automated reverse auction comprising steps of: a first software agent receiving a request for a service from a buyer; the first software agent requesting negotiation for service with at least one other agent, and provision of the first software agent responding to a proposal for providing provision of the service from a second agent profile (page 2, paragraph [0024]-[0028]).
28. A method for performing automated reverse auction comprising the steps of: a first software agent receiving a request for a service from a buyer; the first software agent requesting negotiation for provision of the service with at least one other agent; and the first software agent

Art Unit: 3628

responding to a proposal for providing provision of the service from a second agent profile (page 2, paragraph [0024]-[0028]).

Response to Arguments

5. Applicant's arguments with respect to claims 2-3, 5-10, 12-13, 15-28 have been considered but are moot in view of the new ground(s) of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Pwu whose telephone number is 703 308-7835. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 703 308-0505. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Art Unit 3628

**JEFFREY PWU
PRIMARY EXAMINER**